

REMARKS

The Examiner's reply to our submission of June 30, 2003 has been thoroughly studied and applicants wish to reply, as follows:

Claim Rejections – 35 U.S.C. 103

The Examiner has maintained the rejection of claims 1 to 3 under 35 U.S.C. 103(a) as being unpatentable over Vreman et al. (US Patent 6,350,275) in view of the document by Lam entitled "A Summary of Canadian Consensus Guidelines". In addition, the Examiner has extended this rejection to claims 10 to 12, 19 to 30 and 32 to 36.

Applicants have closely studied the cited references and cannot agree that this combination renders the claims obvious. Applicants have obtained and submit a declaration by Dr. Raymond Lam in this regard.

In particular, in independent claims 1, 19 and 21 applicants are seeking patent protection for at least a light therapy device comprising a light emitting assembly including a plurality of LEDs and capable of generating 2,500 lux to 7,500 lux at 12 inches.

In the office action of October 30, 2003, the Examiner argues that "Vreman discloses a device for treating circadian rhythm disorders using LEDS ... but does not explicitly claim 2500-7500 LUX. ... It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to adjust the intensity of Vreman to 2500-7500 LUX as taught by Lam because seasonal disorders can be treated". Further in response to applicants' submitted arguments, the Examiner argued that "Regarding applicant's argument that there is no motivation to combine Vreman and Lam please note that Lam provides the motivation by dictating useable light levels".

Since the Examiner continues to reject claims 1, 19 and 21 on the basis of obviousness over the combination of Vreman and Lam, applicants have obtained a Declaration by Dr. Raymond Lam, as a person skilled in the art to which the invention pertains. In the Declaration, Dr. Lam clarifies that a person skilled in the art would recognize that a head

mounted unit, as defined in Vreman, does not offer identical therapy results to a fluorescent light box. Furthermore, Dr. Lam submits that in his opinion "efficacy for one type of light therapy device is not automatically applicable to another type of light therapy device without study". Dr. Lam clarifies that his reference, which the Examiner has cited, carefully recommends efficacy only for the fluorescent light box. Dr. Lam also declares that "(t)he light emitted from a fluorescent tube or incandescent bulb is different that the light generated from a light emitting diode." He states that he "would not have assumed that a device using LEDs would be effective for light therapy simply by adjusting it to have the intensity values set out in the Summary".

Therefore, the Declaration of Dr. Lam strongly evidences that a skilled person would not be led to apply the teachings of the Lam reference to either a head mounted therapy device or an LED-based device. Thus, this Declaration supports applicants' assertion that the subject matter of claims 1, 19 and 21 as a whole would not have been obvious to a skilled person. In particular, applicants submit that it would not have been obvious to one of ordinary skill in the art at the time of the claimed invention to adjust the intensity of Vreman to 2500-7500 LUX. As such, it is apparent that the obviousness rejection based on Vreman in view of Lam is defective and should be withdrawn with respect to claims 1, 19 and 21 and their dependent claims 2 to 18, 20 and 22 to 25. Favorable consideration is requested.

As noted above, the Examiner has also rejected claim 26 as being unpatentable over Vreman in view of Lam. Claim 26 defines a light therapy device comprising at least an outer housing including a base and, pivotally connected thereto, an upper member, an opening in the inner facing surface of the upper member; and a light emitting assembly including a plurality of LEDs operable to emit light through the opening.

Since neither Vreman nor Lam teach or even suggest such a light therapy device, it is apparent that this rejection should be withdrawn with respect to claim 26 and its dependent claim 27.

The Examiner has also rejected claim 28 under 35 U.S.C. 103(a) based on the combination of Vreman and Lam. In claim 28, the invention is defined as an ocular light

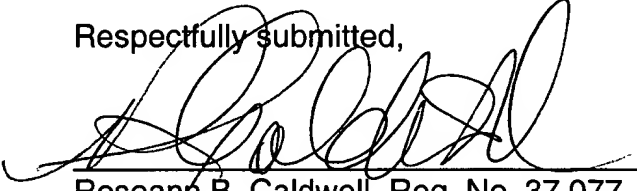
therapy device comprising at least an outer housing including an opening and a base and a light emitting assembly in the housing including a plurality of white light emitting LEDs and operable to emit light through the opening in the housing.

Again, Vreman does not teach or suggest such an ocular light therapy device and Lam adds nothing to Vreman that would render this claim obvious. In view of the foregoing, applicant respectfully submits that the obviousness rejection of claim 28 and its dependent claims 29 to 36, should be withdrawn. Reconsideration is respectfully requested.

Conclusions

In view of the foregoing, applicants respectfully request that the Examiner withdraw all rejections with regard to the claims in reliance on the grounds submitted by the applicants.

Respectfully submitted,


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